

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

E-FILED - 6/18/14

KEITH CHARLES KNAPP, as Trustee of
the California Home Loans Profit Sharing
Plan; TRUST FOR THE
CALIFORNIA HOME LOANS
PROFIT SHARING PLAN, as a fiduciary
of the California Home Loans Profit Sharing
Plan; THERESE A. LAVOIE, as a
participant in the California Home Loans
Profit Sharing Plan,

Plaintiffs,

v.

NOREEN CARDINALE, an individual,
Defendant.

CASE NO. C 12-05076-RMW-HRL

**STIPULATION AND []
ORDER TO CONTINUE HEARING ON
DEFENDANT'S MOTION FOR
TEMPORARY STAY OF
PROCEEDINGS, TO CONTINUE
PRETRIAL CONFERENCE, AND TO
CONTINUE TRIAL**

Hon. Ronald M. Whyte

**Pre-Trial Conf.: July 3, 2014
Trial Date: July 28, 2014**

**Hearing Date: June 20, 2014
Hearing Time: 9:00 a.m.
Courtroom 6 – 4th Floor**

NOREEN CARDINALE,
Plaintiff,

v.

DANIEL R. MILLER JR.; PATRICE
MILLER, his spouse; DANIEL R. MILLER
SR.; PASHLIN INC., a California
corporation; DERALD R. KENOYER;
KEITH CHARLES KNAPP; HOME LOAN
SERVICES CORPORATION dba
CALIFORNIA
HOME LOANS, a California Corporation;
and DOES 1 through 100, inclusive

Defendants.

RELATED CASE NO. C 12-05078-RMW

**(Remanded Pursuant to Order Dated
February 15, 2013)**

Pursuant to Civil L.R. 6-2 and 7-12, Plaintiffs Keith Charles Knapp, as Trustee of the California Home Loans Profit Sharing Plan, the Trust for the California Home Loans Profit Sharing Plan, as a fiduciary of the California Home Loans Profit Sharing Plan, Therese A. Lavoie, as a participant in the California Home Loans Profit Sharing Plan, and Defendant Noreen Cardinale hereby stipulate and request the following: i) that the hearing on Defendant Noreen Cardinale's Motion for Temporary Stay of Proceedings ("Motion to Stay") (Doc. 101), currently set for June 20, 2014, be continued until August 1, 2014; ii) that the pretrial conference, currently set for July 3, 2014, be continued until August 7, 2014; and iii) that trial, currently set for July 28, 2014, be continued until August 25, 2014. The parties note that Defendant intends to timely file her reply to Plaintiffs' opposition to the Motion to Stay because such reply was completed prior to the time that the parties reached agreement regarding the instant stipulation.

Defendant's motion seeks to stay this action brought pursuant to the Employee Retirement Income Security Act of 1974, as amended. (*See* Declaration of Joseph A. Garofolo ("Garofolo Decl.") ¶ 3 filed concurrently herewith). Although Plaintiffs oppose any stay relating to this action, after Plaintiffs' counsel conferred with counsel for the trustee appointed in the matter of the bankruptcy of Keith Charles Knapp (also a Plaintiff in the case in his capacity as Trustee of the California Home Loans Profit Sharing Plan), the parties have agreed to stipulate to the requested relief set forth above. (*Id.* at ¶¶ 4-6). The reason for the requested continuances is so that the bankruptcy trustee may have additional time to determine whether she believes that it is appropriate to seek to intervene in the instant action and to further evaluate her position with regard to Defendant's Motion to Stay. (*See id.* at ¶¶ 5-6).

The trial and pretrial conference previously have been continued three times. (*See* Stipulation and Order dated February 13, 2014 (Doc. 91); Order dated March 12, 2014 (Doc. 97); Order dated June 5, 2014 (Doc. 107)). This stipulation will have the effect on the case of continuing the pretrial conference for five weeks and trial for approximately one month. (*See* Garofolo Decl. ¶ 8).

IT IS SO STIPULATED AND AGREED.

1 June 13, 2014

/s/ Michael L. Boli

Michael L. Boli
Attorney for Defendant/Judgment Creditor Noreen
Cardinale

4 June 13, 2014

/s/ Joseph A. Garofolo

Joseph A. Garofolo
Attorney for Plaintiffs Keith Charles Knapp, as Trustee of
the California Home Loans Profit Sharing Plan, the Trust
for the California Home Loans Profit Sharing Plan, as a
fiduciary of the California Home Loans Profit Sharing
Plan, and Therese A. Lavoie, as a participant in the
California Home Loans Profit Sharing Plan

10 **ORDER**

11 Pursuant to the Stipulation, and good cause appearing, the Court orders the following:

12 i) the hearing on Defendant's Motion to Stay, currently set for June 20, 2014, is vacated and reset
13 to August 1, 2014, at 9:00 A.M.; ii) the pretrial conference, currently set for July 3, 2014, is
14 vacated and reset to August 7, 2014, at 2:00 P.M.; and iii) trial, currently set for July 28, 2014, is
15 vacated and reset to August 25, 2014, at 1:50 P.M.

17 IT IS SO ORDERED.

18 Dated: June 17, 2014



UNITED STATES DISTRICT JUDGE